

Application No. 09/770,765  
Amendment "B" dated April 7, 2004  
Reply to Office Action mailed January 20, 2004

### REMARKS

The Office Action mailed January 20, 2004, considered claims 30-39. Claims 30, 32, 33 and 35 were rejected under 35 U.S.C. § 102(e) as being anticipated by Adams (U.S. Patent No. 6,044,396), while claims 31, 34 and 36-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Adams in view of Ravi (U.S. Patent No. 6,292,834)<sup>1</sup>.

By this paper, claim 30 has been amended, claim 36 has been cancelled and new claims 43-49 have been added. Accordingly, claims 30-35 and 37-49 now remain pending for reconsideration.

Of the pending claims, only claims 30, 43 and 46 are independent claims. Each of these independent claims is directed to a method of bandwidth allocation for transmitting video on a cable network. The recited methods include providing and differentially converting data sources into compressed video streams, responsive to instantaneous resource restrictions, and multiplexing the video streams on a single transmission line.

With specific regard to Claim 30, the differential conversion is at least partially responsive to the content of the data sources. As acknowledged by the Examiner, on page 4 of the office action, "Adams fails to show differentially converting the data responsive to the content." Instead, the Examiner relies on Ravi for this teaching. Ravi, however, cannot be used to support the obviousness rejections of record under 35 U.S.C. § 103(a), inasmuch as Ravi qualifies as prior art only under 35 U.S.C. § 102(e) and Ravi is commonly assigned to Microsoft Corporation, the assignee of the present application.<sup>2</sup> Accordingly, the existing rejection to claim 30 is not supported by the art of record and should, therefore, be withdrawn. Therefore, Applicants respectfully submit that claim 30 and all of its corresponding dependent claims are now in condition for prompt allowance.

New claim 43 is similar to claim 30, except that it does not require the differential conversion to be responsive at least in part to the content of the data sources. Instead, claim 43 is focused on the embodiment in which the instantaneous resource restriction comprises a computing resource restriction. With regard to this claimed embodiment, the Examiner has also

<sup>1</sup> Although the prior art status of Adams is not being challenged at this time, Applicants reserve the right to challenge the prior art status of Adams at any appropriate time, should it arise. Furthermore, inasmuch as Ravi is disqualified as prior art for each of the obviousness rejections of record, Applicants have elected not to address the merits of Ravi at this time. Nevertheless, this should not be construed as acquiescing to the purported teachings of Ravi. Instead, Applicants reserve the right to challenge the purported teachings of Ravi at any appropriate time.

<sup>2</sup> See 35 U.S.C. § 103(c).

Application No. 09/770,765  
Amendment "B" dated April 7, 2004  
Reply to Office Action mailed January 20, 2004

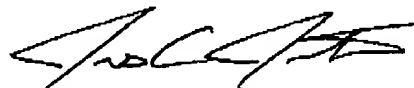
stated that "Adams fails to show that the resource restriction comprises a computing restriction." (Page 3 of the Office Action.) Instead, the Examiner has relied on Ravi for this teaching. However, for at least the reasons mentioned above, Ravi is an invalid prior art reference for such a rejection. Accordingly, claim 43 should be found to be in condition for allowance over the cited art of record. The claims depending from claim 43 should also be allowed for at least the same reasons.

The last independent claim, new claim 46, is directed to the specific embodiment in which the differential conversion of the data sources includes converting each data source to a different frame rate compressed video stream. With regard to this specific embodiment, the Examiner has stated that "Adams shows converting each stream into a different bit rate, but fails to specifically state that the bit rate is associated with the frame rate." (Page 3 of the Office Action.) Once again, Ravi is relied upon to reject this claimed embodiment. However, Ravi is not a valid prior art reference for such a rejection, as mentioned above. Accordingly, claim 46 should also be allowed over the art of record, along with all of its corresponding dependent claims.

For at least the foregoing reasons, Applicants respectfully submit that all of the pending claims 30-35 and 37-49 are now in condition for prompt allowance. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 7 day of April 2004.

Respectfully submitted,



RICK D. NYDEGGER  
Registration No. 28,651  
JENS C. JENKINS  
Registration No. 44,803  
Attorneys for Applicant

Customer No. 022913

W:\14531\107.1.4\CM0000003422V001.doc